IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1164 OF 2005
IN
SUIT NO.4343 OF 1996

Mrs.Santish Ganesh Mishra Plaintiff

versus

Pradeep R. Shukla & another Defendants

Shri D.R.Mishra for plaintiff.

Shri M.Varma i/by S.P.Shrivastav for defendants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 22nd March 2006

PC :

1. The plaintiff seeks amendment to the plaint by adding properties listed at Annexure-A to the affidavit in support of this Chamber Summons.

2. The suit is filed for partition of the property and estate of the deceased Ramshankar D. Shukla on the basis that the plaintiff has half share and interest therein.

3. In the affidavit in support it is pointed out that on account of settlement talks and because of the fact that on 5th March 2005 the plaintiff became aware of the additional properties allegedly left behind by the deceased. It is in these circumstances and for a complete adjudication of the controversy, that the further development is placed on record as well as plaint and the annexures thereto sought to be modified accordingly.

4. The defendants have filed an affidavit and contended that there is gross delay in taking out this Chamber Summons. In their submission, the suit is filed in the year 1996 and the Chamber Summons is taken out in the year 2005. The other contentions are with regard to the merits of the pleas.

5. After perusing the Chamber Summons and the affidavit in support thereof, the reply and rejoinder thereto, I am satisfied that no prejudice will be caused to the defendants by merely including properties listed at Annexure-A to the affidavit in support of this Chamber Summons. As far as delay is concerned, the same can be compensated by payment of costs to the

defendants.

6. Accordingly, following order :-

a) Chamber Summons is made absolute in terms of prayer clause (a);

(b) Plaintiff to pay costs quantified at Rs.1,500/- (Rs.Fifteen hundred only) to the defendants. Payment of costs is condition precedent;

(c) Amendment to be carried out within a period of two weeks. Amended plaint to be served on the defendants within four weeks thereafter. Additional written statement, if any, to be filed within a period of six weeks from the date of receipt of amended plaint.

(S.C.DHARMADHIKARI, J.)